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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

THE PEOPLE,

Plaintiff and Respondent,

v.

GREGORY FERRALL,

Defendant and Appellant.

B290612

(Los Angeles County
Super. Ct. No. BA453773)

APPEAL from a judgment of the Superior Court of
Los Angeles County, Katherine Mader, Judge. Affirmed.

Cindy Brines, under appointment by the Court of Appeal,
for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

An information charged defendant and appellant Gregory Ferrall with one count of possession for sale of a controlled substance in violation of Health and Safety Code section 11378. The information alleged that Ferrall had suffered one prior strike conviction (Pen. Code, §§ 667, subd. (b)-(i), 1170.12)¹ and three prison priors. (§ 667.5, subd. (b).) After the trial court denied his motion to suppress evidence pursuant to Penal Code section 1538.5, Ferrall pleaded no contest to the charge of possession for sale of a controlled substance. On a motion by the prosecution, the trial court dismissed the prior-crime allegations. The court sentenced Ferrall to the middle term of two years in prison.

Ferrall's appellate counsel filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*) raising no issues on appeal and requesting that we independently review the record. On December 11, 2018, we sent a letter to Ferrall and to counsel. In the letter, we directed counsel to immediately send the record on this appeal and a copy of the *Wende* brief to Ferrall and informed him that he had 30 days to submit a letter or brief covering any ground of appeal, contention or argument he wished us to consider. We have received no communication from Ferrall.

We have independently reviewed the record, and we affirm. At the suppression hearing, Jesus Salazar, a Los Angeles Police Officer, testified that on the evening of August 23, 2016, he responded to a 911 call by an unknown caller reporting a burglary in progress on Hollywood Boulevard. The anonymous 911 caller described the suspect as a White man, approximately 40 years old, wearing shorts, a black shirt, and a camouflage backpack. Salazar noticed that Ferrall, who was standing nearby, matched the description of the burglar, so the officer detained him. Another police officer, Nestor Escobar, arrived on the scene after Salazar had handcuffed Ferrall. Escobar

¹ Unless otherwise specified, subsequent statutory references are to the Penal Code.

searched the records and discovered that Ferrall had an outstanding arrest warrant. Escobar arrested Ferrall, searched him, and discovered a cellophane bag containing crystal methamphetamine, along with empty plastic baggies. Ferrall was not charged with burglary.

Ferrall testified that he had just finished grocery shopping and was waiting at a bus stop when Salazar arrived. According to Ferrall, Salazar ran a warrant check on him and, despite not finding any warrants, searched Ferrall and told him that he was taking him in because he had an ounce of speed in his pocket. Escobar arrived a few minutes later. Ferrall testified that he did not in fact have any outstanding warrants, but claimed that another man stole his identity many years earlier. According to Ferrall, as a result of the other man's conduct, a warrant was issued in Ferrall's name.

"In reviewing the trial court's suppression ruling, we defer to its factual findings if supported by substantial evidence. We independently assess the legal question of whether the challenged search or seizure satisfies the Fourth Amendment." (*People v. Brown* (2015) 61 Cal.4th 968, 975.) Under this standard, we agree with the trial court that the search of Ferrall was reasonable under the Fourth Amendment. First, courts have frequently held that an unknown 911 caller who describes a crime happening contemporaneously is sufficiently reliable to provide reasonable suspicion for a subsequent police stop. (See, e.g., *id.* at pp. 981-983.) Next, the trial court reasonably found the officers' testimony more credible than Ferrall's. On the basis of the officers' testimony, the trial court concluded that Escobar was correct in determining that Ferrall had an outstanding warrant. This provided probable cause to arrest him, and at that point the search was a valid search incident to an arrest. (See *United States v. Robinson* (1973) 414 U.S. 218, 234.) Even if Ferrall was correct and the warrant for his arrest was the result of identity theft, we would affirm the conviction.

A search incident to arrest is not unreasonable simply because the arresting officer arrested the wrong suspect as a result of good faith mistaken identity. (See *People v. Hill* (1968) 69 Cal.2d 550, 553.)

We are satisfied that Ferrall's counsel has fully complied with her responsibilities and that no arguable appellate issue exists. (*Wende, supra*, 25 Cal.3d at p. 441; *People v. Kelly* (2006) 40 Cal.4th 106, 110.)

DISPOSITION

The judgment of the trial court is affirmed.

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ROTHSCHILD, P. J.

We concur:

JOHNSON, J.

BENDIX, J.